IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 6.6.2007

Coram:

The Hon'ble Mr.JUSTICE S.RAJESWARAN

C.R.P.(NPD) Nos.718 and 719 of 2003

1.Perumal Naidu (died)

2.P.Ponmozhi
2nd petitioner brought on record
as Legal Representative of decd.,
sold petitioner C.Perumal Naidu
vide order dt.7.10.05 made in
C.M.Ps.10580 to 10585/05.

.. Petitioners in both C.R.Ps.
(Appellant/Responden)

vs.

T.V.Badrinath .. Respondent in both C.R.Ps.
(Respondent/Petitioner)

Revision Petitions filed U/S 25 of the Tamilnadu Buildings (Lease and Rent Control) Act 1960 as amended by Act 23/1973 against the order dated 1.11.2002, in R.C.A.Nos.6 and 8 of 2002 passed by the Rent Control Appellate Authority (Principal Sub-Judge, Cuddalore) against the order dated 12.4.2002 in RCOP No.10/1999, on the file of the Rent Controller (Principal District Munsif), Cuddalore, respectively.

For Petitioners : M/s.P.Prem Kumar
For Respondent : Mr.D.Rajagopal

COMMON ORDER

These Revision Petitions have been filed against the order dated 1.11.2002, in R.C.A.Nos.6 and 8 of 2002 passed by the Rent Control Appellate Authority (Principal Sub-Judge, Cuddalore) against the order dated 12.4.2002 in RCOP No.10/1999, on the file of the Rent Controller (Principal District Munsif), Cuddalore, respectively.

2.The tenant is the petitioner in both the revision petitions. He is aggrieved by the common order of the rent control appellate authority dated 1.11.2002 made in RCA Nos.6/2002 and 8/2002.

3.The respondent herein filed RCOP No.10/1999 under Sec.4 of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960, hereinafter called

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'the Act', for fixing the fair rent for the petition schedule property at Rs.2,000/- per month. In his petition the respondent herein stated that the original tenant Perumal Naidu was paying only Rs.50/- per month for the petition premises wherein he was doing a jewellery business and the property is located in a very valuable place where a number of jewellery shops are doing good business and similarly located shops are fetching a monthly income of Rs.2,000/- per month. Therefore the respondent prayed to fix the fair rent at Rs.2,000/- per month.

4.The original tenant resisted the fair rent petition by contending that the monthly rent of Rs.50/- itself is the fair rent and he is not doing any jewellery business in the petition premises but was doing only jewellery repair work. The rent controller after going through the evidence, fixed a sum of Rs.1,000/- per month for the petition premises and aggrieved by the same the tenant filed RCA No.6/2002 and the landlord filed RCA No.8/2002 . The appellate authority increased the fair rent fixed by the rent controller from Rs.1,000/- to Rs.1,675/- per month in RCA No.8/2002 by allowing it partly and dismissed RCA No.6/2002 filed by the tenant. Aggrieved by the same, the tenant alone has filed both the above revision petitions.

5.Heard the learned counsel for the petitioners and the learned counsel for the respondent. I have also perused the documents filed in support of their submissions.

6.During the pendency of the revision petitions the original tenant/1st revision petitioner passed away and his daughter was brought on record as his Legal Representative by order dated 7.10.2005.

7.It is not in dispute and in fact admitted by both the parties that the petition premises is situated in the centre of the town. But the extent of the property was stated as 140 sq.ft., by the landlord and 117 sq.ft., by the tenant. After going through the municipality tax receipt and the report of the court appointed commissioner, the rent controller found that the claim of the landlord was correct and the extent is 140 sq.ft., and not 117 sq.ft. The value of the building was arrived at as per the valuation of the P.W.D.Engineer and the value of the land was valued at Rs.61,426/- by the Advocate Commissioner on the basis of the guideline value fixed by the Sub-Registrar office. Based on this guideline value the advocate-commissioner arrived at the fair rent at Rs.898/- per month and the rent controller arrived at Rs.1,000/- per month.

8.The appellate authority, concurred with the findings of the rent controller in all other aspects except the value of the land fixed by the rent controller at Rs.61,466/- on the basis of the guideline value. The appellate authority relied on the evidence of P.W.2, who is doing real estate business, who deposed that similarly situated shops in the same locality are fetching a sum of Rs.2,000/- per month. Accordingly the

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appellate authority fixed the value of the land at Rs.1,22,851.64 and fixed the fair rent at Rs.1,675/- per month.

9.I do not find any illegality or infirmity in the order of the appellate authority warranting interference by this court. The rent controller has wrongly fixed the value of the land by relying on the guideline value which is not correct as per the Full Bench decision of this court reported in 2006(2) CTC 433 (Sakthi & Co. vs. Sri Desigachari). Therefore the appellate authority has correctly disregarded the guideline value and considered the location of the shop and the evidence of P.W.2, a real estate businessman and arrived at the land value, which cannot be found fault with. Therefore I do not find any grounds to interfere with the order of the appellate authority in fixing the fair rent at Rs.1,675/- per month to the petition premises.

10.In the result, both the Civil Revision Petitions re dismissed. No costs. C.M.P.No.7809/2003 is also dismissed.
sks

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1. The Principal Subordinate Judge,
(Appellate Authority),Cuddalore.

2. The Principal District Munsif,
(Rent Controller), Cuddalore.
+ One cc to Mr. M. Rajasekar, Advocate SR 32322
BV (co)
sg 25/6/07

order,
C.R.P.(NPD)718 & 719/03.
6.6.2007

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